

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JULIAN R. HOOD, JR.,

Plaintiff,

v.

MEGAN J. BRENNAN, et al.,

Defendants.

Case No. 1:17-cv-98

HON. JANET T. NEFF

_____ /

OPINION AND ORDER

Plaintiff initiated this matter on September 7, 2016, against the United States Postal Service, Megan Brennan, the Postmaster General, and Beth Eliopoulos, a postal service employee. Defendants Megan Brennan and the United States Postal Service filed a motion to dismiss on res judicata grounds (ECF No. 28).¹ Plaintiff filed a motion for leave to amend the complaint (ECF No. 25) and a motion to dismiss without prejudice and to transfer (ECF No. 32). Defendants also filed a motion for sanctions (ECF No. 33). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R & R), recommending that Defendants' motion to dismiss be granted, Plaintiff's motions be denied, Plaintiff's claims against the unserved Defendant be dismissed, and this action be terminated.² The matter is presently before the Court on Plaintiff's objection to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report

¹ Service of Plaintiff's complaint was not effected on Defendant Beth Eliopoulos.

² The Report and Recommendation did not address Defendants' motion for sanctions.

and Recommendation to which objection has been made. The Court denies the objection and issues this Opinion and Order.

Plaintiff objects to the Magistrate Judge's determination that his complaint is barred by res judicata (Pl. Obj., ECF No. 36 at PageID.543; R & R, ECF No. 35 at PageID.540). Plaintiff asserts that he could not have raised his instant claim in any one of his previous cases. However, the Magistrate Judge applied the governing legal principles for res judicata and properly determined that the present action is barred. This action concerns Plaintiff's termination of employment from the United States Postal Service in April 2004, as have a number of his previous actions. Plaintiff's effort in 2016 to seek additional remedies does not alter the res judicata outcome with respect to the legal claims at issue. Plaintiff's argument fails to demonstrate any factual or legal error in the Magistrate Judge's analysis or conclusion. His objection is therefore denied.

Defendants move to sanction Plaintiff's "vexatious litigation by fining him \$1,000 and restricting his access to the courts" (ECF No. 33 at PageID.534). Defendants argue that, objectively, Plaintiff filed this suit vexatiously and in bad faith. They state that Plaintiff previously filed and has had adjudicated more than a dozen cases related to his employment with the Postal Service, including the exact causes of action he asserts here. Further, he has filed at least three suits like this one that were dismissed as barred by res judicata. Defendants request that Plaintiff be "sanctioned \$1,000 and prohibited from filing any new action, complaint, or claim for relief against the United States, the United States Postal Service, or their current or former employees unless he first obtains leave to file from the District Court" (ECF No. 34 at PageID.538).

The Court recognizes the burden placed on the Court and Defendants by the repetitive filings, all relating to claims surrounding the 2004 termination of his employment with the Postal Service. It is clear that, absent extraordinary circumstances, Plaintiff's avenues of relief are now

foreclosed. Therefore, while the Court declines to impose sanctions at this time, Plaintiff is placed on notice that continued court filings related to his previously filed claims or the 2004 termination of his employment with the Postal Service may result in the Court imposing severe monetary sanctions on Plaintiff and/or his placement on a “restricted filer” status that would require permission of the Court before filing any documents.

Accordingly, this Court adopts the Magistrate Judge’s Report and Recommendation as the Opinion of this Court. The Court denies Defendants’ motion for sanctions. A Judgment will be entered consistent with this Opinion and Order. *See* Fed. R. Civ. P. 58. Therefore:

IT IS HEREBY ORDERED that the Objection (ECF No. 36) is DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 35) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendants’ Motion to Dismiss (ECF No. 28) is GRANTED.

IT IS FURTHER ORDERED that Plaintiff’s Motion Requesting Court Leave to Amend Complaint (ECF No. 25) and Motion to Dismiss Complaint without Prejudice and Transfer (ECF No. 32) are DENIED.

IT IS FURTHER ORDERED that Plaintiff’s claims against Defendant Eliopoulos are DISMISSED WITHOUT PREJUDICE for failure to timely effect service.

IT IS FURTHER ORDERED that Defendants’ Motion for Sanctions (ECF No. 33) is DENIED.

Dated: August 31, 2017

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge